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In re Application of :
GOUELBO, et al. :
U.S. Application No. 09/381,752 :
PCT No.: PCT/US97/05909 :
Int. Filing Date: 24 March 1998 :
Priority Date: 28 March 1997 :
For: SEMI-AUTOMATIC APPARATUS FOR :
AFFIXING ANTI-THEFT DEVICE TO :
AN ARTICLE :

DECISION ON PETITION
UNDER
37 CFR 1.47

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 14 December 1999, Response to Notification of Abandonment dated 15 June 2000, and unsigned facsimile communication dated 23 July 2001.

BACKGROUND

On 24 March 1998, applicant filed international application PCT/US97/05909 which claimed a priority date of 28 March 1997 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 October 1998. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date.

On 22 September 1999, prior to the expiration of thirty months from the priority date of the international application, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied inter alia, by: the requisite basic national fee; a copy of the international application; a declaration/power of attorney; and a petition under 37 CFR 1.47.

On 15 November 1999, the PCT Legal Office mailed "Decision on Petition under 37 CFR 1.47" indicating that the petition was dismissed because applicant did not provide adequate proof that the missing inventor, Alain Damene, refused to execute the application or could not be reached after diligent effort.

On 14 December 1999, applicant filed "Renewed Petition under 37 CFR 1.47(a)."

On 08 June 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/909)

indicating that the application was abandoned for failure to respond to the Decision mailed 15 November 1999.

On 15 June 2000, applicant filed Response to Notification of Abandonment.

On 23 July 2001, applicant submitted an unsigned communication which included: a copy of the 14 December 1999 Renewed Petition under 37 CFR 1.47(a) with exhibits and a copy of the 15 June 1999 Response of Notice of Abandonment.

DISCUSSION

In view of the receipt of the Renewed Petition under 37 CFR 1.47(a) filed 14 December 1999, which was a timely response to the Decision dated 15 November 1999, the Notification of Abandonment mailed 08 June 2000 is hereby VACATED.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Applicant has satisfied items (1),(3),and(4).

A review of the present petition and the accompanying papers reveal that applicant has not satisfied the item (2) above. Petitioner states that "[o]n November 1999, a cover letter and complete copy of the instant patent application . . . were sent to Mr. Dameme by Federal Express . . . No reply has been received by Mr. Dameme." However, as stated in previous decision, it does not appear that the petitioner has first hand knowledge of all the facts. In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person (i.e. Tricia Riddle) having first hand knowledge of the facts that a complete copy of the application papers was sent to Mr. Dameme and when such papers were sent and that Mr. Dememe has subsequently refused to execute the application.

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Mr. Dememe and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is DISMISSED.

The Notification of Abandonment mailed 08 June 2000 is hereby VACATED.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extension of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



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